



1-22335

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Alvin D. Compaan et al. Group Art Unit 2818

Serial No.: 09/815,958

Examiner: Dung Le

Filed: March 23, 2001

Attorney Docket No.: 1-22335

For: SEMICONDUCTOR HAVING GROUP II – GROUP VI
COMPOUNDS DOPED WITH NITROGEN**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION**Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a petition to withdraw the holding of abandonment for the above-identified patent application under 37 CFR 1.137(a). Applicants never received an Office Action issued by the Examiner, and therefore failed to timely respond to the Office Action. In view of the unavoidable nature of the failure to respond, Applicants petition for withdrawal of the holding of abandonment, and revival of the abandoned patent application.

The above-identified patent application was filed March 23, 2001. The Examiner issued a Restriction Requirement on April 17, 2002. In a written response, dated May 10, 2002, Applicants elected claims 1-12, the method claims. Based on a recent statement by the Examiner, the Examiner issued an Office Action on June 19, 2002. Neither Applicants nor their attorney ever

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received the June 19th Office Action until February 19, 2003. Applicants and their attorney were unaware of the existence of the Office Action until Applicants' attorney received a telephone inquiry from Examiner Dung Le on about January 19, 2003 regarding a response to the June 19th Office Action. The Examiner finally sent a copy of the Office Action to Applicants' attorney on February 19, 2003 by facsimile. In view of the fact that the Office Action was received only two weeks ago, the entire delay in filing the response to the June 19th Office Action was unavoidable, as required by 37 CFR 1.137 (a)(3).

Applicants undersigned attorney, Ted C. Gillespie, has conducted an internal investigation to discover facts related to the missing Office Action. A search of the attorney file, docket 1-22335, and of the docket records of the MacMillan, Sobanski, and Todd, LLC law firm failed to locate the missing Office Action, or any indication that it had ever been received. This indicates that the June 19th Office Action was never received by the MacMillan, Sobanski, and Todd, LLC office. The MacMillan, Sobanski, and Todd, LLC law firm has a sophisticated, computerized Docket System, using an Access database. All incoming mail from the U.S. Patent and Trademark Office is reviewed by the Docket Administrator and entered into the Docket System, and further any response due is noted by the Docket Administrator on the jacket of the relevant paper file. If the Office Action had been received, there would be a copy of the Office Action in the file for case 1-22335. Further, if the Office Action had been received at the MacMillan, Sobanski, and Todd law firm, there would be an entry in the MacMillan, Sobanski, and Todd Docket System indicating that an Office Action had been received, and that a response was due three months from the mailing date of the Office Action, i.e., September 19, 2002.

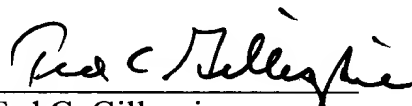
Attached to this paper is the result of a data query for all items in the MacMillan, Sobanski, and Todd Docket System where a response was due on September 19, 2002. It can be seen that 13 different items have an action date

of September 19, 2002. Of these, 4 of the entries (cases 05918, 23052, 22142 and 15704) indicate that responses to office actions (OFFAC) were originally due (MST Action Date) on September 19, 2002. Clearly, if an Office Action for the above-identified patent application had been received, there would have been an entry for case number 22335 with an MST Action Date of September 19, 2002.

In view of the above, Applicants contend that the entire delay in filing a response to the June 19th Office Action was totally unavoidable. Accordingly, Applicants request withdrawal of the holding of abandonment of the application, and continued prosecution of the application on the merits. As required by 37 CFR 1.137 (a)(1), the response to the June 19, 2003 office action accompanies this petition.

Please charge the petition fee of \$55.00 as required by 37 CFR 1.137 (a)(2) and defined in 37 CFR 1.17(l). If any additional fees are required pertaining to this response, Applicants request that all necessary fees be charged to Deposit Account No. 13-0005.

Respectfully submitted,


Ted C. Gillespie
Registration No. 27,981

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Action Search

2/6/2003



CaseNumber	MST Action	MST Action Date	CaseType	Country	FileDate	Action Taken Date
36354	USE	9/19/2002	TMK	US	05-Apr-2001	9/11/2002
13726	USE	9/19/2002	TMK	US	05-Jun-1997	9/19/2002
23446	OFFAC3	9/19/2002	CON	US	13-Nov-2001	9/16/2002
23163	FEE	9/19/2002	CON	US	22-May-2001	9/11/2002
16036	APPEAL	9/19/2002	ORD	US	27-Sep-1999	9/9/2002
16036	FINAL	9/19/2002	ORD	US	27-Sep-1999	8/12/2002
22657	USE	9/19/2002	TMK	US	23-Aug-2000	9/3/2002
05082	RENEW	9/19/2002	TMK	US	11-May-1992	12/6/2002
05918	OFFAC	9/19/2002	RCE	US	29-Dec-1999	9/20/2002
23052	OFFAC	9/19/2002	ORD	US	04-Apr-2001	9/19/2002
72122	FILAP	9/19/2002	ORD	US		8/7/2002
22142	OFFAC	9/19/2002	RCE	US	25-Feb-2000	9/19/2002
15704	OFFAC	9/19/2002	ORD	US	10-Sep-2001	9/19/2002